

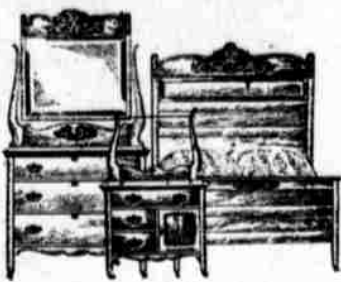
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Commissioner Edward S. Boyd ON HAWAII'S LAND LAWS To Committee on Pacific Islands

[Special Correspondence of the Sunday Bulletin.]

Washington, March 15, 1902.—The Senate Committee on Pacific Islands, of which Senator Joseph B. Foraker of Ohio is chairman, on Monday last, March 10, gave an extended hearing on Senator Mason's bill, identical with that of Delegate Wilcox, providing special land laws for the Territory of Hawaii. The committee did not reach any conclusion and will give further hearings to parties interested, and if Delegate Wilcox is convalescent while the matter is pending before the committee he will appear and make a statement in advocacy of the measure. Through the courtesy of the Secretary of the Committee, the Bulletin's representative has been furnished with an advance page proof of the proceedings of the committee in which is contained the statement of William Haywood, representing the Honolulu Chamber of Commerce, and Edward S. Boyd, Commissioner of Public Lands of Hawaii. Mr. George R. Carter was present at the hearing at the invitation of Senator Foraker, and may appear before the committee later to give the committee the benefit of his information with reference to Hawaii. The committee is composed of the following Senators: Foraker (chairman), Foster of Washington, Mitchell, Burton, Cockrell and Blackburn. Statement of Edward S. Boyd, Commissioner of Public Lands of Hawaii.

The Chairman. Please state your name in full.

Mr. Boyd, Edward S. Boyd.

The Chairman. Where do you reside, Mr. Boyd?

Mr. Boyd, In Honolulu, Territory of Hawaii.

The Chairman. Are you a native of the Hawaiian Islands?

Mr. Boyd, I am.

The Chairman. What official position, if any, do you hold in connection with the government of those islands?

Mr. Boyd, I am the commissioner of public lands.

The Chairman. How long have you held that office?

Mr. Boyd, Since May 7, 1901.

The Chairman. Have you had your attention called to Senate bill No. 1344, introduced by Mr. Mason, "to provide special land laws for the Territory of Hawaii?"

Mr. Boyd, Yes, sir.

The Chairman. You have read it, have you?

Mr. Boyd, I have read it very carefully.

The Chairman. The committee will be obliged to you, Mr. Boyd, if you will state in your own way the situation in Hawaii as to the nature and extent of your public lands, together with your views as to whether or not any legislation is needed; and if so what should be its character.

Mr. Boyd, The matter being of such vital importance, gentlemen, I thought it best to put what I had to say on paper, in order that I might not omit mentioning any of the important points. With your permission I will read this statement.

The Chairman. Certainly.

Mr. Boyd (reading). If the proposed land act is passed, gentlemen, it should be new, de novo, without reference to the existing land laws of the United States, and all of the old laws of Hawaii should be specifically repealed.

Table showing area of the Hawaiian Islands and elevation of highest points as by late estimate by Government Survey Office.

	Square miles.	Acres.	Highest point in feet.
Hawaii	4,915	2,570,000	13,825
Mau	728	466,000	10,032
Kahoolawe	69	44,000	1,427
Lanai	135	86,000	3,400
Molokai	261	167,000	4,958
Oahu	690	284,000	4,920
Kauai	544	248,000	4,800
Niihau	97	62,000	800
Total	6,449	4,127,000	

The outlying islets and reefs to the northwest, which belong to the Hawaiian group, contain a few square miles in addition to the above, but are not of a nature to require notice here.

Within the limits of the main islands named above is to be found the greatest diversity of topographical features, climate, and quality of soil.

Rugged mountains, deep narrow valleys, flat marsh lands, and high mountain pastures, rich alluvial soil and barren lava wastes, and every gradation between these states are to be found, not only on a single island, but in frequently in a limited portion of a single district.

The volcanic origin of the islands, the unequal distribution of rainfall, and the rapid rise from sea level to high elevations account for the wide diversity indicated.

The windward side of the islands (north to northeast) are in general, well watered; the leeward sides are more rocky and drier, but with richer soil.

Ancient System of Land Tenure and Subdivision.

Previous to the great division of lands upon which all present land ti-

ties are based what is best described as a "feudal system" existed, under which the King had certain recognized rights in all the lands of his people.

The high chiefs in their turn, and inferior chiefs following them, had their special rights in the lands of their own subordinates, and so on down to the lowest class of tenants.

These rights, however, pertained principally to rent, share of production, or ordinary labor, rather than to military service.

It is only necessary to note that under this system the districts of the islands, the lands, and subdivisions were well understood and defined, although such subdivision was unique and based on no mathematical system, being the product of custom, tradition, use, etc. One land, therefore, might be a few hundred feet wide and several miles long; another, starting at the shore with small width, run as a narrow strip for miles, and then expand to cover a hundred thousand acres; another have its main portion on one side of an island, and a disconnected portion on the other side; run from the sea and terminate at the mountain top or run over the mountain top to the sea on the other side.

Every irregularity of form was represented in these old divisions, resulting in a "dovetailing" and interlacing difficult to describe.

It would not be fair, however, to imply that all of the lands were of the eccentric types given. A more common type of main division was a strip of moderate width extending from the sea to the mountains, so that its chief could share in the products of the sea and of the land at different elevations. It should be noted that the later "great division" of lands in 1848, while changing radically the basis of ownership, did not, and in fact could not, change the old divisions.

The Basis of Present Land Titles.

The old feudal tenure of lands was terminated, and the new order, upon which all present titles are based, established by the series of acts extending from 1846 to 1855, the principal ones being the great division of the lands of the country between the King, Kamehameha III, and the chiefs, the further division of the lands given up to the King into Government and Crown lands, and the awarding to the common people the comparatively small lots that they had occupied or used.

The details of these transactions are of great interest, but general results only need be stated.

Approximate division of lands, 1848-1855.

	Acres.
Government lands	1,495,000
Crown lands	981,000
Chiefs' lands	1,619,000
Kuleanas (ordinary tenants' lands)	28,000
Total	4,127,000

Note.—The area of Kuleanas or ordinary tenants' land was comparatively small, but was composed of the very choicest land in the whole country.

In this division of 1848 a number of valuable lands were overlooked or ignored and, as "unassigned" lands, were for a long time of disputed ownership.

By judicial decisions and by legislative action in 1890 most of these lands were added to the Government and Crown domains, a few, however, being confirmed to private owners.

Early Land Policy of the Government.

Immediately after the division of 1848, of which results have just been given, the Government proceeded to sell much of its land at private sale and at the low rates of from 12 cents to \$1 per acre. The lands thus sold were selected and surveyed at the option of the purchaser, and many thousands of acres of the "cream" of Government lands were thus disposed of.

This method, though perhaps a necessity of the time, had serious disadvantages, not the least of which was the leaving of numerous scattered remnants of Government land, being the unsalable and undesirable portions, at that time.

Under this system of private sale probably 500,000 acres were disposed of, these sales being largely to natives.

The first act requiring sales to be made at public auction was enacted in September, 1876, applying to sales of lands or leases over \$200 in value.

By an act of the provisional government in 1892, all such sales and leases, of whatever value, were required to be made at public auction after thirty days' public notice.

Homestead Laws, 1884 to 1895.

The first homestead act to facilitate acquisition of small holdings was enacted in 1884, and amended in minor particulars in 1888, 1890 and 1892.

This act and amendments, which remained in force until passage of the land act of 1895, gave opportunity for acquiring lots in general not over 20 acres in extent, under conditions allowing ten years for payment of purchase price, requiring the erection of a dwelling and a residence of three years on the land. A substitute might reside on the land with consent of the

Minister of Interior (as amended in 1892).

Under the provisions of these homestead laws there were—

	Num-ber.	Acres.	Value.
Taken up (omitting holdings canceled and surrendered)...	527	8,490.81	\$62,794.55
Patented upon fulfillment of conditions...	377	5,820.76	\$5,312.30

Remaining to be patented

ed 150 2,670.05 \$17,482.25

During this same period there were:

Acres. Value.

Taken up under special conditions as to improvement and cultivation without residence

Patented upon fulfillment of conditions

Remainder to be patented

The general results of these homestead laws were good. Numerous families of small means were put into possession of homes, and considerable improvement in the way of cultivation could be noticed.

The laws, however, did not meet all the requirements of the case. The area permitted to be taken was too small to tempt any but those of limited means and very moderate ambition. Residence alone did not imply utilization of the land, and a perfunctory compliance with the residence condition was easy. A better guaranty of bona fide intentions was needed.

The Land Act of 1895.

To promote the settlement and improvement of the remaining Government land, under conditions favorable to the settler but not to speculators, and to meet the needs of different classes desiring lands, the land act of 1895 was enacted as being specially adapted to the requirements of this case.

An important feature of this act was the general requirement of cultivation and improvement of lands taken up, as well as residence thereon for a term of years. There was authority, however, under the act for the sale of lands at auction, under special conditions as to payments for same and cultivation, without residence, to meet the cases of persons who desired to improve and cultivate land, but having occupations elsewhere were unable to live on the same.

Method of Acquiring Land Under the Land Act of 1895.

General qualifications required of applicants.—Must be over 18 years of age; be citizen by birth or naturalization, or have letters of denization; be under no civil disability nor delinquent in payment of taxes.

Homestead lease.—Nine hundred and ninety-nine year lease, conditioned upon maintaining home upon the premises, paying taxes, and cultivating small percentage.

Area that might be acquired, \$ to 45 acres, dependent on quality.

No payments other than small application fee.

Husband and wife might not both be applicants.

Applicant must not be owner of any other land (except taro or wet lands).

Lease inalienable—not subject to attachment, levy, or sale, or to any process of the courts.

Might not be mortgaged, assigned, or sublet.

Right of purchase lease.—Lease for twenty-one years with right of purchase at original appraised value any time after two years' residence and cultivation of 25 per cent.

Area that might be acquired, 100 to 1200 acres, dependent on quality.

Husband and wife might not both be applicants.

Applicants could apply only for such amount as, taken with any lands owned by them, would come to the limits named.

Rental at 8 per cent on appraised value to be paid until purchase was made.

Cash freeholds.—Lands sold at auction at an appraised value as upset price; purchase price due in four installments during three years.

Two years' residence and 25 per cent of cultivation further required to perfect title.

Qualifications and areas that might be acquired, same as under right of purchase lease.

Special agreements.—Sales at auction under special conditions as to payments by installments, with requirements of cultivation, with or without residence.

Limit of area that might be sold under special agreement, 600 acres.

(Practically the area has been limited to 100 acres of first-class land, as under the other systems.)

Cash sales.—Sales made unconditionally for cash at public auction. These sales usually made to meet cases where exceptionally costly improvements were contemplated, as



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buildings, reservoirs, pumping machinery, etc.

Olaa district sales.—Special sales, at a value appraised in the act of 1895, of lands held under Crown leases in the district of Olaa, Hawaii. Lessee could purchase his lease holdings up to 200 acres when 15 per cent of same had been put under cultivation and further improvements to the value of \$200 made.

Distinct from the general system of the land act and applying only to the Olaa district.

Summary of Transactions Under the Land Act of 1895.

	Number.	Acres.	Value.
Homestead leases	115	1,549.56	\$ 5,000.00
Right of purchase leases	356	18,665.78	118,665.56
Cash freeholds	23	783.82	4,117.54
Special agreements	122	7,066.17	50,689.06
Cash sales	40	2,996.89	39,923.73
Olaa district sales	142	15,532.00	61,171.00
Total	798	46,594.22	\$279,566.89

Note.—Value of homestead lease land is an arbitrary estimate. Formal appraisal not required under the law.

A comparison of transactions during the period of 1884-1895 with those of the period from 1895 to date (under "land act") shows for the latter period a very much larger proportion of lands taken up under conditions of homestead or improvement as compared with "cash sales."

1884-1895 (11 years).

Acres. Value.

Cash sales 37,675.24 \$195,588.95

Under homestead or improvement conditions 12,943.65 73,405.18

49,718.89 \$268,994.13

Under land act of 1895 (four years).

Acres. Value.

Cash sales 2,996.89 \$ 39,923.73

Under homestead or improvement conditions 43,597.33 239,643.16

46,594.22 \$279,566.89

The "land act of 1895" has proved well suited to the conditions in the Hawaiian Islands. Under it the demand for public land has been active and fair prices have been realized for the benefit of the public treasury.

Speculation and "land grabbing" have been minimized, and a marked improvement and development of lands taken is evident. The success of the act would not be questioned by any impartial observer familiar with the facts.

The extremely varied quality of the lands, the intermingling of public and private lands, and the special needs of the people, together with the duty of best utilizing the limited public domain, required land laws drawn to meet such special conditions, and these in all essential points have been met by the "land act of 1895."

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